

AMENDED IN SENATE AUGUST 20, 2010

AMENDED IN SENATE AUGUST 17, 2010

AMENDED IN ASSEMBLY JUNE 1, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2599

**Introduced by Assembly Members Bass and Hall
(Coauthor: Assembly Member Fuentes)**

February 19, 2010

An act to add Article 5.15 (commencing with Section 14165.50) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code; ~~relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.~~ *relating to Medi-Cal.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2599, as amended, Bass. Medi-Cal: South Los Angeles.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law authorizes the California Medical Assistance Commission to negotiate selective provider contracts with eligible hospitals to provide inpatient hospital services to Medi-Cal beneficiaries. *Existing law also provides for the provision of inpatient and outpatient hospital services under the Medi-Cal program on a fee-for-service basis. Existing law provides for supplemental payments to hospitals providing Medi-Cal services in accordance with prescribed provisions of law.*

Existing law requires the County of Los Angeles, for the 2007–08, 2008–09, and 2009–10 state fiscal years, to make intergovernmental transfers to fund the nonfederal share of increased Medi-Cal payments to those private hospitals that serve the South Los Angeles population formerly served by Los Angeles County Martin Luther King, Jr. - Harbor Jr.-Harbor Hospital.

~~This bill, in order to facilitate the financial viability of a new private nonprofit hospital that will serve the population of South Los Angeles that was formerly served by the Los Angeles County Martin Luther King Jr. - Harbor Hospital, would require the department and the California Medical Assistance Commission to take all steps necessary to ensure the availability of Medi-Cal funding, as specified, or implement mechanisms to provide equivalent funding under successor or modified Medi-Cal payment systems.~~

This bill would enact Medi-Cal funding provisions for a new hospital, as defined, that would be a private nonprofit entity that would serve the population of South Los Angeles formerly served by the Los Angeles Martin Luther King Jr.-Harbor Hospital.

The bill would authorize the hospital to negotiate an inpatient hospital services contract with the commission, as provided for under existing law, and would contain provisions relating to inpatient hospital services reimbursement if a contract is not negotiated under these provisions.

The bill would also contain provisions relating to reimbursement for outpatient hospital services provided by the new hospital and to the making of supplemental payments to the new hospital.

The bill would establish various conditions for its implementation, including the receipt of all necessary federal approvals and the receipt of federal financial participation.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Until August 2007, the County of Los Angeles operated the
- 4 Los Angeles County Martin Luther King, Jr.-Harbor Hospital,

1 which provided inpatient and outpatient hospital services to the
2 population of South Los Angeles.

3 (b) During the 2007–08 Regular Session of the Legislature, the
4 Legislature enacted Senate Bill 474, which, among other things,
5 created the South Los Angeles Medical Services Preservation
6 Fund. Senate Bill 474 provided for the South Los Angeles Medical
7 Services Preservation Fund to be continuously appropriated for
8 each of the 2007–08, 2008–09, and 2009–10 project years for the
9 purpose of reimbursing the county for its specified costs of meeting
10 the health care needs of the population formerly serviced by the
11 Los Angeles County Martin Luther King, Jr.-Harbor Hospital. The
12 Legislature anticipated that funds from the Medi-Cal-Hospital
13 ~~Care/Uninsured Hospital~~ Hospital/Uninsured Care Demonstration
14 Project, as provided under Senate Bill 474, would be available to
15 help fund the restoration of hospital services on the site of the
16 former Los Angeles County Martin Luther King, Jr.-Harbor
17 Hospital campus.

18 (c) The County of Los Angeles and the University of California
19 are working together to open a new hospital on the former Los
20 Angeles County Martin Luther King, Jr.-Harbor Hospital campus.
21 Both entities have approved, in principle, the key terms for opening
22 the new hospital under a private nonprofit entity, which include a
23 substantial funding commitment by the County of Los Angeles.
24 The new hospital will serve as a safety net provider in South Los
25 Angeles, treating a high volume of Medi-Cal and uninsured
26 patients.

27 (d) It is contemplated that the new hospital would be located in
28 the seismically-compliant patient tower on the campus of the
29 former Los Angeles County Martin Luther King, Jr.-Harbor
30 Hospital. The patient tower meets the requirements as an eligible
31 project pursuant to Section 14085.5 of the Welfare and Institutions
32 Code.

33 (e) *It is the intent of the Legislature that adequate and*
34 *predictable funding in support of the new hospital shall include*
35 *the continuation of funding provided to the County of Los Angeles*
36 *through the South Los Angeles Medical Services Preservation*
37 *Fund as set forth in Section 14166.25 of the Welfare and*
38 *Institutions Code, or equivalent funding under successor or*
39 *modified payment systems, for purposes related to meeting the*

1 *health care needs of the population formerly served by the Los*
2 *Angeles County Martin Luther King, Jr.-Harbor Hospital.*

3 *(f) It is the intent of the Legislature that a new private nonprofit*
4 *hospital that will serve the population of South Los Angeles that*
5 *was formerly served by the Los Angeles County Martin Luther*
6 *King, Jr.-Harbor Hospital shall not be eligible to receive*
7 *disproportionate share hospital replacement payments as provided*
8 *for in Section 14166.11 of the Welfare and Institutions Code, or*
9 *equivalent funding under successor or modified payment systems.*

10 *(e)*

11 *(g) It is the intent of the Legislature to facilitate the success of*
12 *the new hospital in providing critical health care to the South Los*
13 *Angeles population, which is dependent upon adequate and*
14 *predictable funding levels.*

15 SEC. 2. Article 5.15 (commencing with Section 14165.50) is
16 added to Chapter 7 of Part 3 of Division 9 of the Welfare and
17 Institutions Code, to read:

18
19 Article 5.15. Medi-Cal Funding for South Los Angeles

20
21 14165.50. (a) To facilitate the financial viability of a new
22 private nonprofit hospital that will serve the population of South
23 Los Angeles that was formerly served by the Los Angeles County
24 Martin Luther King, Jr.-Harbor Hospital, ~~the department and the~~
25 ~~California Medical Assistance Commission shall take all steps~~
26 ~~necessary to ensure the availability of Medi-Cal funding as~~
27 ~~specified below, or implement mechanisms to provide equivalent~~
28 ~~funding under successor or modified Medi-Cal payment systems:~~

29 ~~(1) Ensure that the rates for Medi-Cal inpatient hospital services~~
30 ~~negotiated under the Selective Provider Contracting Program, as~~
31 ~~set forth in Article 2.6 (commencing with Section 14081), shall~~
32 ~~reimburse the new hospital at no less than 60 percent of the~~
33 ~~hospital's costs for providing the services, exclusive of any~~
34 ~~supplemental payments.~~

35 ~~(2) Ensure that Medi-Cal payment for debt service incurred by~~
36 ~~the County of Los Angeles, and, if applicable, the new hospital,~~
37 ~~with respect to capital projects located at the site of the new~~
38 ~~hospital that were previously determined eligible under Section~~
39 ~~14085.5, will be made to the new hospital.~~

1 ~~(3) Ensure that Medi-Cal outpatient services, including~~
2 ~~emergency room services, will be reimbursed under the same~~
3 ~~methodology as that established in Section 14105.24.~~

4 ~~(4) Ensure that the funding provided to the County of Los~~
5 ~~Angeles through the South Los Angeles Medical Services~~
6 ~~Preservation Fund, as set forth in Section 14166.25, will continue~~
7 ~~to be made available to the county for purposes related to meeting~~
8 ~~the health care needs of the population formerly served by the Los~~
9 ~~Angeles County Martin Luther King, Jr. Harbor Hospital.~~

10 ~~(b) The new hospital receiving funds provided for in this section~~
11 ~~shall be a private nonprofit hospital established pursuant to an~~
12 ~~agreement between the County of Los Angeles and the University~~
13 ~~of California. Medi-Cal funding shall at a minimum be made~~
14 ~~available, as specified in this section, or pursuant to mechanisms~~
15 ~~that provide equivalent funding under successor or modified~~
16 ~~Medi-Cal payment systems.~~

17 ~~(b) (1) (A) Payment for Medi-Cal inpatient hospital services~~
18 ~~provided by the new hospital, including, but not limited to,~~
19 ~~supplemental payments, may be negotiated under the selective~~
20 ~~provider contracting program, as set forth in Article 2.6~~
21 ~~(commencing with Section 14081). The negotiations for per diem~~
22 ~~payments shall include consideration of the new hospital's~~
23 ~~projected Medi-Cal costs for providing the services and level of~~
24 ~~Medi-Cal reimbursement thereof, exclusive of any supplemental~~
25 ~~payments, necessary for the financial viability of the new hospital,~~
26 ~~and all other factors allowable under Section 14083.~~

27 ~~(B) Notwithstanding any other provision of law, Medi-Cal~~
28 ~~supplemental payment for debt service costs shall be made to the~~
29 ~~new hospital pursuant to Section 14085.5 with respect to capital~~
30 ~~projects located at the site of the new hospital that previously were~~
31 ~~determined eligible under Section 14085.5 based on the debt~~
32 ~~service costs incurred by the County of Los Angeles, and if~~
33 ~~applicable, the new hospital. Alternatively, the rate required to be~~
34 ~~paid to the new hospital pursuant to subparagraph (A) may be~~
35 ~~increased to take into account the amount of the supplemental~~
36 ~~payments for debt service during the time the payments would be~~
37 ~~due. Nothing in this subparagraph shall be construed to increase~~
38 ~~the department's obligations set forth in paragraph (2) of~~
39 ~~subdivision (g) of Section 14085.5.~~

1 (2) Notwithstanding any other provision of law, in the event the
2 new hospital does not enter into a contract under the selective
3 provider contracting program as described in paragraph (1), all
4 of the following shall apply:

5 (A) Health facility planning area 935, or a successor health
6 facility planning area, that includes the area in which the new
7 hospital will operate, shall be opened to enable the cost-based
8 reimbursement methodology for Medi-Cal inpatient hospital
9 services set forth in the Medi-Cal state plan to apply with respect
10 to services provided by the new hospital.

11 (B) The department shall seek federal approval, as necessary,
12 to enable the new hospital to receive Medi-Cal supplemental
13 payments in addition to the cost-based reimbursement provided
14 for in subparagraph (A). The nonfederal share of the supplemental
15 payments may be funded with public funds that are transferred to
16 the state from the County of Los Angeles, at the county's election,
17 pursuant to Section 14164.

18 (C) (i) Any public funds transferred to the state as described
19 in subparagraph (B) for supplemental payments to the new hospital
20 with respect to a fiscal period shall be expended solely for the
21 nonfederal share of the supplemental payments, except for an
22 amount that may be retained by the state for the benefit of the
23 Medi-Cal program negotiated between the department and the
24 County of Los Angeles, limited as follows:

25 (I) For each fiscal year before the 2017–18 fiscal year, the
26 retained amount shall not be more than the amount of the
27 nonfederal share of the reimbursement, exclusive of any
28 supplemental payments, for the fiscal year to be paid pursuant to
29 the cost-based reimbursement methodology described in
30 subparagraph (A) that exceeds 77 percent of the new hospital's
31 projected Medi-Cal costs.

32 (II) For the 2017–18 fiscal year and each subsequent fiscal
33 year, the retained amount shall not be more than the amount of
34 the nonfederal share of the reimbursement, exclusive of any
35 supplemental payments, for the fiscal year to be paid pursuant to
36 the cost-based reimbursement methodology described in
37 subparagraph (A) that exceeds 72 percent of the new hospital's
38 projected Medi-Cal costs.

39 (ii) For purposes of this subparagraph, the new hospital's
40 projected Medi-Cal costs shall be based on the cost finding

1 principles applied under subdivision (b) of Section 14166.4, and
2 are not subject to the reimbursement limitations set forth in Article
3 7.5 (commencing with Section 51536) of Chapter 3 of Subdivision
4 1 of Division 3 of Title 22 of the California Code of Regulations.
5 The new hospital's projected Medi-Cal costs may take into account
6 audit adjustments to allowable costs for prior periods.

7 (D) Reimbursement under this paragraph shall be available to
8 the new hospital only if the necessary federal approval described
9 in subparagraph (B) is obtained. If the necessary federal approval
10 is not obtained, the new hospital shall be reimbursed for Medi-Cal
11 inpatient hospital services as set forth in paragraph (1) and the
12 per diem payments shall reimburse the hospital at no less than 72
13 percent of the hospital's projected Medi-Cal costs for providing
14 the services, exclusive of any supplemental payments and the
15 payments described in subparagraph (B) of paragraph (1).

16 (3) Notwithstanding any other provision of law, and only to the
17 extent federal approval is obtained, the new hospital shall be
18 reimbursed for Medi-Cal outpatient services under the cost-based
19 reimbursement methodology established in Section 14105.24. The
20 department shall seek federal approval, as necessary, to expand
21 the methodology to include outpatient services provided to
22 Medi-Cal beneficiaries by the new hospital.

23 (c) Nothing in this section shall be construed to preclude the
24 new hospital from receiving any other payment for which it is
25 eligible in addition to the payments provided for by this section.

26 (d) Notwithstanding the rulemaking provisions of Chapter 3.5
27 (commencing with Section 11340) of Part 1 of Division 3 of Title
28 2 of the Government Code, the department may implement this
29 section by means of all facility letters, all county letters, or similar
30 instructions, without taking further regulatory action. Nothing in
31 this section shall be construed to preclude the department from
32 adopting regulations.

33 (e) (1) Except as otherwise provided herein, this section shall
34 be implemented only if, and to the extent that, federal financial
35 participation is available and this section does not jeopardize the
36 federal financial participation available for any other state
37 program.

38 (2) This section shall be implemented only if, and to the extent
39 that, necessary approval from the federal Centers for Medicare
40 and Medicaid Services is obtained.

1 (f) *For purposes of this article, “new hospital” means a health*
2 *facility that is certified under Title XVIII and Title XIX of the*
3 *federal Social Security Act, and is licensed pursuant to Chapter 2*
4 *(commencing with Section 1250) of Division 2 of the Health and*
5 *Safety Code to provide acute inpatient hospital services, and*
6 *includes all components of the facility, with an inpatient hospital*
7 *service location on the campus of the former Los Angeles County*
8 *Martin Luther King, Jr.-Harbor Hospital.*

9 ~~SEC. 3. This act is an urgency statute necessary for the~~
10 ~~immediate preservation of the public peace, health, or safety within~~
11 ~~the meaning of Article IV of the Constitution and shall go into~~
12 ~~immediate effect. The facts constituting the necessity are:~~

13 ~~In order to ensure the restoration of critical health care services~~
14 ~~to the South Los Angeles population formerly served by the Los~~
15 ~~Angeles County Martin Luther King, Jr. Harbor Hospital and to~~
16 ~~ensure that those services remain accessible, it is necessary that~~
17 ~~this act take effect immediately.~~